

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
IN RE:	:
	:
SEARS HOLDINGS CORPORATION, et al.,	:
	:
	:
Debtors	:
-----X	

Chapter 11
Case No. 18-23538 (RDD)
(Jointly Administered)

MOTION FOR LIMITED RELIEF FROM STAY

COMES NOW, Movant, Gabriel Young, by and through his attorney, James F. Dowden, P.A., and for his Motion for Limited Relief from Stay, states as follows:

1. Sears Holding Management Corporation (“Sears”) filed for Chapter 11 Bankruptcy relief on October 15, 2018.
2. Currently pending in the Circuit Court of Pulaski County, Arkansas, is a tort action filed July 26, 2018, Case No. 60CV-18-5258, *Gabriel Young vs. Sears Holding Management Corporation and Michael Gatewood*. The Complaint (Exhibit “A”) alleges, inter alia, negligent operation of a vehicle belonging to Defendant/Debtor Sears resulting in physical injury to Movant/Plaintiff, Gabriel Young.
3. Movant seeks relief from stay for “cause”, pledging to only seek the limits provided by Sears’ liability insurance coverage carrier and seeking no damages from the Chapter 11 estate.
4. For cause shown the automatic stay should be lifted in this instance to permit the Movant to pursue his state court remedies seeking damages for his physical injuries from Sears’ liability insurance coverage only in the Pulaski County, Arkansas Circuit Court case described above and attached hereto. Movant waives any claim in the Debtor’s Bankruptcy Estate.

WHEREFORE, Movant, Gabriel Young, prays for an Order from this Court approving this *Motion for Limited Relief from Stay*, so that he may proceed with the tort action as set out hereinabove; and for all other proper relief to which he may be entitled.

Respectfully submitted,

/s/ James F. Dowden
JAMES F. DOWDEN (77046)
Attorney for Movant
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion has been delivered by the Court's electronic notification system or by U.S. mail on this 3rd day of April, 2019 to the following:

U.S. Trustee

Paula M. Basta
Scott K. Charles
Garrett A. Fail
Jessica Liou
Sunny Singh
Attorneys for Debtor

All ECF Participants

/s/ James F. Dowden
James F. Dowden

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Pulaski County Circuit Court
Larry Crane, Circuit/County Clerk
2018-Jul-26 14:20:30
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IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

GABRIEL YOUNG

PLAINTIFF

V.

NO. _____

**SEARS HOLDING MANAGEMENT
CORPORATION and MICHAEL
GATEWOOD**

DEFENDANTS

COMPLAINT

Comes the Plaintiff, Gabriel Young, by and through counsel, Matthew E. Hartness , and for his cause of action states:

1. Plaintiff is a resident of Pulaski County, Arkansas.
2. Plaintiff's cause of action arises from a motor vehicle collision which occurred in Pulaski County, Arkansas.
3. Defendant, Sears Holding Management Corporation, hereinafter referred to as "Sears," is a foreign corporation doing business in Pulaski County, Arkansas. Defendant Michael Gatewood is a resident of Independence County, Arkansas.
4. This Honorable Court has personal and subject matter jurisdiction over this matter and venue is proper herein.
5. On May 1, 2017, Plaintiff was operating a 2002 Toyota and was traveling South on Warden Road near McCain Boulevard in Pulaski County, Arkansas.
6. At the same time and place Defendant, Michael Gatewood, an employee or agent of Defendant Sears, was operating a 2014 van and was also traveling South on Warden Road, behind the Plaintiff.

EXHIBIT A

7. As Gabriel Young lawfully proceeded southbound he came upon the intersection and yielded to traffic. After he had done so Defendant, Michael Gatewood, negligently ran the van in to the rear of Plaintiff's vehicle.

8. The actions of Defendant, Michael Gatewood, for which Defendant, Sears, is responsible, were the proximate cause of the injuries and damages sustained by Plaintiff. Specific acts of negligence include, but are not limited to, the following:

- a. Failing to keep a proper lookout;
- b. Failing to keep the vehicle he was driving under proper control;
- c. Careless and prohibited driving;
- d. Driving too fast for conditions;
- e. Failing to yield the right of way; and,
- f. Otherwise failing to exercise ordinary care under the circumstances.

9. At the time of the crash which gives rise to this cause of action, Defendant, Michael Gatewood, was operating a vehicle owned by Defendant, Sears. At all times relevant to this cause of action, Defendant, Michael Gatewood, was acting within the course and scope of his employment with Defendant, Sears. Under the doctrine of *respondeat superior*, Defendant, Sears, is vicariously liable for any damages which resulted from the negligence of Defendant, Michael Gatewood.

10. As a proximate result of the negligence of Defendants, Plaintiff sustained the following injuries and damages:

- a. permanent physical injury;
- b. pain, suffering and mental anguish experienced in the past and reasonably certain to be experienced in the future; and,
- c. medical expenses incurred in the past.

11. Plaintiff's unliquidated damages exceed the current minimum requirement for federal court jurisdiction in diversity of citizenship cases. Plaintiff furthermore demands a trial by jury.

WHEREFORE, Plaintiff prays for judgment of and from the Defendants, in an amount adequate to compensate him for the damages he has sustained, which amount exceeds the current minimum amount required for federal court jurisdiction in diversity of citizenship cases. Plaintiff further prays for costs, interest and all other just and proper relief to which he may be entitled.

Respectfully Submitted,

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BY: /s/ Matthew E. Hartness
MATTHEW E. HARTNESS, ABN 96005